

Wilson County Board of Zoning Appeals Minutes
May 16, 2019

The Wilson County Board of Zoning Appeals met May 16, 2019 at 9:00 a.m. in the County Commission Room of the Wilson County Courthouse, Lebanon, Tennessee, pursuant to public notice. Those members present were Abercrombie, Kawczynski, Neal, Thompson and Thorne. Also, present was County Planning staff, Building Inspector staff, Storm Water staff and Court Reporter Teresa Hatcher, hired by the county.

Thompson called the meeting to order. Thompson informed individuals with questions or who desire to make comments before the Board concerning the cases to approach the podium when asked by the Chairman and to sign in on the sign-up sheet giving name, address, and case of interest. Thompson informed individuals that anyone desiring to withdraw or request deferral could do so at this time. Thompson informed everyone that a stenographer was present and individuals could get with her at the end of the meeting if they desired a transcript of the meeting. Thompson then asked all individuals who desired to make statements before the Board to raise their hands. He thereupon administered the oath to each and every one of the prospective witnesses. Thompson stated that staff makes recommendations which are considered by the Board.

Minutes of the April 18, 2019 meeting were read and approved, motion made by Kawczynski, second by Abercrombie, and all voting aye.

The following cases were presented:

CASE 3690

REQUEST: **Gabriel Pastrana** is seeking a ten (10) feet variance from the south side yard setback requirement of fifteen (15) feet in order to build an accessory structure in the side yard of the house. The variance will allow the accessory structure to be five (5) feet from the south side property line. The location of the accessory structure will be out of the thirty (30) feet public utility and drainage easement. The property located at 213 Bryson Place, Lot 408, Wright Farms is Group "E", Parcel 16 on the Wilson County Tax Map 99 "B". The property consists of twenty-nine thousand, one hundred and nine (29,109) square feet and is zoned R-1 Residential. Applicant went before the board on August 17, 2018 and was denied a variance of eleven (11) feet from the south side property line.

ORDINANCE REFERENCE: ARTICLE 5 ZONING DISTRICTS - SECTION 5.10 RURAL RESIDENTIAL (R-1) - 5.10.05 AREA REGULATIONS - B. SIDE YARD - 1. For single and two-story structures located on interior lots, side yards shall be not less than fifteen (15) feet in width for a principal structure, and not less than ten (10) feet for an accessory structure. [resolution 15-2-12] - 4. Accessory structures shall not be located in any required side yard.

ACTION: Staff read recommendations. Applicant appeared presenting his case and submitted a letter in favor from a property owner. After discussion, motion made by Kawczynski, second by Abercrombie and all voting aye, the request was approved based on the odd shape of the lot.

CASE 3691

REQUEST: Charles Bellafant is requesting an extension on a zoning violation. The property located on Farmstead Lane is Parcel 43 on Wilson County Tax Map 71. The property consists of 1.30 acres and is zoned R-1 Residential.

ORDINANCE REFERENCE: ARTICLE 2 DEFINITIONS - SECTION 2.20

SPECIFIC TERMS - AUTOMOBILE GRAVEYARD: Any lot used for the purpose of dismantling and/or storing on the site two or more motor vehicles which are not maintained in operating condition. **AUTOMOBILE SALVAGE YARD:** An automobile graveyard which is operated as a business involving the dismantling and sale, trade or other exchange of motor vehicle parts. A motor vehicle is defined as any self-propelled vehicle not operated exclusively on a track, including motorcycles. **JUNK YARD:** A yard, field, or other area used as a place of storage for discarded, worn-out, or junked plumbing, heating supplies, household appliances, furniture, discarded scrap and junked lumber, old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel, and other scrap ferrous or non-ferrous material, garbage dumps, waste dumps and sanitary fills. **ARTICLE 5 ZONING DISTRICTS - SECTION 5.10 RURAL RESIDENTIAL (R-1) - 5.10.02 USES PERMITTED - A.** Dwelling, Single-family; B. Farming;

C. Home occupation as defined in Article 2 of this regulation; D. Accessory uses or structures customarily incidental to the permitted uses.

ACTION: Staff read recommendations. Applicant appeared presenting his case and stating he would need two (2) additional months to get the property cleaned up. After discussion, motion made by Thompson, second by Abercrombie and all voting aye, the extension was approved for four (4) months.

CASE 3692

REQUEST: Wendall Ethridge is seeking a variance of ten (10) feet from the north and south side yard setback requirements of twenty (20) feet on the existing house in order to build a pool. The existing house is ten (10) feet from the north and south side property lines. Applicant is also seeking a variance of approximately nineteen thousand, six hundred and seventy (19,670) square feet from the lot size requirement of forty thousand (40,000) square feet and a variance of twenty-five (25) feet from the lot width requirement of one hundred and twenty-five (125) feet. The property located at 411 Drifting Circle, Lot 7, Driftwood Acres is Group "A", Parcel 10 on Wilson County Tax Map 9 "P". The property consists of approximately twenty thousand, three hundred and thirty (20,330) square feet and is zoned A-1 Agricultural.

ORDINANCE REFERENCE: ARTICLE 5 ZONING DISTRICTS - SECTION 5.20 AGRICULTURAL (A-1) - 5.20.05 AREA REGULATIONS - B. SIDE YARD

1. For single and two-story structures not served by public sewer system located on interior lots, side yards shall be not less than twenty (20) feet in width for a principal structure, and not less than ten (10) feet for an accessory structure. [revised resolution 15-2-12] - E. LOT WIDTH -

5. Where dwellings are not served by a public sewer system there shall be a minimum lot width of one hundred twenty-five (125) feet at the front building line. [revised 07-7-4] -

F. MINIMUM LOT AREA - 3. For each dwelling and buildings accessory thereto, not

served by a public sewer system but served by a public water system, there shall be a minimum lot area of forty thousand (40,000) square feet; however, a greater lot area may be required based on recommendations by the State of Tennessee Department of Environment and Conservation. [revised resolution 07-7-4]

ACTION: Staff read recommendations. Bryce Thompson, attorney with Rochelle, McCullough and Aulds appeared representing the applicant. After discussion, motion made by Neal, second by Abercrombie and all voting aye, the request was approved based on staff recommendations.

CASE 3693

REQUEST: Mary Chambers is seeking a variance of twenty-five (25) feet from the rear yard setback requirement of forty (40) feet in order to build a single-family residence. The variance will allow the single-family residence to be fifteen (15) feet to the rear property line. The property located at 815 Burton Point Road, Lot 4, Port Spencer is Group "D", Parcel 4 on Wilson County Tax Map 27 "O". The property consists of approximately twenty thousand (20,000) square feet and is zoned A-1 Agricultural. A variance of fifteen (15) feet from the east side yard setback requirement of twenty (20) feet, allowing the house to be five (5) feet from the east side property line was granted on December 21, 2018 along with a lot size and lot width variance.

ORDINANCE REFERENCE: ARTICLE 5 ZONING DISTRICTS - SECTION 5.20 AGRICULTURAL (A-1) - 5.20.05 AREA REGULATIONS - C. REAR YARD - 1. For principal structures there shall be a rear yard of not less than forty (40) feet.

ACTION: Staff read recommendations. Applicant appeared presenting her case. Kawczynski stated he would be abstaining due to a conflict of interest. After discussion, motion made by Neal, second by Thorne and all voting aye with the exception of Kawczynski abstaining, the request was approved based on staff recommendations and the odd shape of the lot.

CASE 3694

REQUEST: Kenneth Owen is seeking a variance of eight (8) feet from the southeast side yard setback requirement of twenty (20) feet for the existing house in order to make an addition. The existing house is twelve (12) feet from the southeast side property line. The property located at 6005 Bluewater Drive, Lot 46, Twin Cove is Group "B", Parcel 53 on Wilson County Tax Map 15 "H". The property consists of 2.18 acres and is zoned A-1 Agricultural.

ORDINANCE REFERENCE: ARTICLE 5 ZONING DISTRICTS - SECTION 5.20 AGRICULTURAL (A-1) - 5.20.05 AREA REGULATIONS - B. SIDE YARD - 1. For single and two-story structures not served by public sewer system located on interior lots, side yards shall be not less than twenty (20) feet in width for a principal structure, and not less than ten (10) feet for an accessory structure. [revised resolution 15-2-12]

ACTION: Staff read recommendations. Applicant appeared presenting his case. After discussion, motion made by Abercrombie, second by Kawczynski and all voting aye, with the exception of Thompson voting no, the request was approved.

CASE 3695

REQUEST: **Tammy and Marlyce Mahacek** are seeking to establish a short-term rental/airbnb in the basement of their residence. Applicants are also seeking a variance from the two (2) acre requirement for a short-term rental/airbnb. The property located at 325 West Overhill Drive, Lot 43, Springmont is Group "C", Parcel 32 on Wilson County Tax Map 52 "E". The property consists of approximately twenty thousand (20,000) square feet and is zoned R-1 Residential.

ORDINANCE REFERENCE: ARTICLE 5 – ZONING DISTRICTS - SECTION 5.10 – RURAL RESIDENTIAL (R-1) - 5.10.03 USES PERMISSIBLE ON APPEAL - "K" Bed and Breakfast Facility

1. Bed and Breakfast Facilities must possess onsite caretaker either living on premises or on premises within 10 Miles of the Bed and Breakfast Facility to oversee operations.
2. Bed and Breakfast Facilities shall also provide contact information for the local caretaker, as outlined in item 1 above, as well as, contact information for the actual owner of the property if different from the local caretaker. This information shall be provided to the County Sheriff's office, the County Building inspector, and the Wilson Emergency Management Agency. Such required contact information shall include Name, a Valid Mailing Address, Phone number and Email address for the Caretaker and the owner of the property respectively. This information will be required upon approval of any Bed and Breakfast use, as defined in the Wilson County Zoning Resolution, by the Board of Zoning Appeals and prior to commencing operations.
3. Bed and Breakfast facilities as outlined by the Wilson County Zoning Resolution shall be required to meet the rules of the Tennessee Department of Health division of Food and Sanitation Chapter 1200-23-2 titled bed and breakfast establishments, where deemed applicable by officials of the Tennessee Department of Health.
4. Bed and Breakfast facilities as outlined by the Wilson County Zoning Resolution shall be required to have viable sewer septic as determined by the Tennessee Department of Environment and Conservation.
5. All properties in which this use is approved must have a minimum of two (2) acres.
6. This use will be approved in increments with option to request renewal or extension at the end of that time period.

ACTION: Staff read recommendations. Tammy Mahacek appeared presenting her case. After discussion, motion made by Thorne, second by Thompson and all voting aye, with the exception of Abercrombie and Kawczynski voting no, the request was denied based on staff recommendations.

CASE 3696

REQUEST: **James Tapia** is seeking a variance of seven (7) feet from the east side yard setback requirement of ten (10) feet in order to build an accessory structure. The variance will allow the accessory structure to be three (3) feet from the east side property line. Applicant is also seeking a variance of twenty-five (25) feet from the lot width requirement of one hundred and twenty-five (125) feet and a variance of approximately eighteen thousand, three hundred (18,300) square feet from the lot size requirement of

forty thousand (40,000) square feet. The property located at 64 Short Drive, Lot 62, High Hope is Group "B", Parcel 11 on Wilson County Tax Map 12 "N". The property consists of approximately twenty-one thousand, seven hundred (21,700) square feet and is zoned A-1 Agricultural.

ORDINANCE REFERENCE: ARTICLE 5 ZONING DISTRICTS - SECTION 5.20 AGRICULTURAL (A-1) - 5.20.05 AREA REGULATIONS - B. SIDE YARD

1. For single and two-story structures not served by public sewer system located on interior lots, side yards shall be not less than twenty (20) feet in width for a principal structure, and not less than ten (10) feet for an accessory structure. [revised resolution 15-2-12] - E. LOT WIDTH -

5. Where dwellings are not served by a public sewer system there shall be a minimum lot width of one hundred twenty-five (125) feet at the front building line. [revised 07-7-4] - F. MINIMUM LOT AREA - 3. For each dwelling and buildings accessory thereto, not served by a public sewer system but served by a public water system, there shall be a minimum lot area of forty thousand (40,000) square feet; however, a greater lot area may be required based on recommendations by the State of Tennessee Department of Environment and Conservation. [revised resolution 07-7-4]

ACTION: Staff read recommendations. Applicant appeared presenting his case. After discussion, motion made by Neal, second by Kawczynski and all voting aye, the request was approved based on staff recommendations.

CASE 3697

REQUEST: Peter Schulert is seeking to establish a two thousand, two hundred (2200) feet grass air strip. The property located at 3287 Old Rome Pike; Roe Purnell Estate is Parcel 9.01 on Wilson County Tax Map 42. The property consists of 221.16 acres and is zoned A-1 Agricultural.

ORDINANCE REFERENCE: ARTICLE 5 ZONING DISTRICTS - SECTION 5.20 AGRICULTURAL (A-1) - 5.20.03.1 USES PERMISSIBLE ON APPEAL - A. Aircraft landing field, hangars and equipment. The general intent of this subsection is to ensure the orderly development of aircraft landing fields, hangars, equipment and local traffic patterns in Agricultural zones, which will also afford some protection to residences in the area and which will hereby promote the public health, safety, and general welfare of the citizens of Wilson County. If approved, a site development plan of the proposed airfield shall be submitted to the Wilson County Planning Commission for approval.

ACTION: Staff read recommendations along with a letter of opposition. Neal stated he would be abstaining due to a conflict of interest. Bryon Gill, attorney with Rochelle, McCullough and Aulds appeared representing the applicant. The applicant appeared presenting his case and stating this is for personal recreational use not commercial use. He also stated the air strip is three thousand (3,000) feet from any structure. Shawn Henry, attorney with Tune, Entekin and White appeared representing some surrounding property owners in opposition. Grace Harbison, adjoining property owner appeared in opposition. David Buell appeared in opposition. Grace Buell appeared in opposition. Laura Harbison appeared in opposition. Dr. Roy Terry appeared with concerns. Diana VanWinkle, adjoining property owner appeared in opposition. Jim Harbison, adjoining property owner appeared in opposition. Cliff Carey, contractor appeared. Phillip Schulert, the applicant's brother appeared and spoke in favor. Paul Moody appeared

stating he has an airstrip beside him and there are not any issues with noise. Karen Chaffin appeared in opposition. After discussion, motion made by Thompson, second by Kawczynski and all voting aye, the request was deferred until the June meeting so the applicant can provide an appropriate site plan and a business plan with standards of operation.

CASE 3698

REQUEST: **Billie Jean Armstrong** is seeking a variance of two (2) feet from the north side yard setback requirement of ten (10) feet for an existing garage. Applicant is wanting to build an accessory structure which will be connected by concrete to the existing garage. The existing garage is eight (8) feet from the north side property line. The property located at 215 Bethany Lane, Lot 8, Coe Property is Parcel 30.12 on Wilson County Tax Map 66. The property consists of 1.01 acres and is zoned A-1 Agricultural.

ORDINANCE REFERENCE: SECTION 5.20 AGRICULTURAL (A-1) - 5.20.05 AREA REGULATIONS - B. SIDE YARD - 1. For single and two-story structures not served by public sewer system located on interior lots, side yards shall be not less than twenty (20) feet in width for a principal structure, and not less than ten (10) feet for an accessory structure.

[revised resolution 15-2-12]

ACTION: Staff read recommendations. Applicant appeared presenting her case. After discussion, motion made by Abercrombie, second by Neal and all voting aye, the request was approved based on staff recommendations.

CASE 3699

REQUEST: **Brian Williams** is seeking a variance of thirty-five (35) feet from the rear yard setback requirement of forty (40) feet. The variance will allow the residence to be five (5) feet from the rear property line. The property located at 2023 Pointe Barton Drive, Lot 31, Pointe Barton is Group "B", Parcel 20 on Wilson County Tax Map 35 "A". The property consists of approximately twenty-four thousand, nine hundred and fifty (24,950) square feet and is zoned A-1 Cluster.

ORDINANCE REFERENCE: SECTION 4.50 CLUSTER RESIDENTIAL DEVELOPMENT (resolution 09-3-14) - 4.50.03 DEVELOPMENT REQUIREMENTS D. There shall be no minimum lot size, width, or yard requirements, except for a required setback along the entire perimeter of every cluster development not less than the minimum distance between structures and street right-of-way for that district. (printed 12/13/93) - ARTICLE 5 ZONING DISTRICTS - SECTION 5.10 RURAL RESIDENTIAL (R-1) - 5.10.05 AREA REGULATIONS - REAR YARD - 1. For principal structures (not served by public sewer system) there shall be a rear yard of not less than forty (40) feet. [revised 12-13-93 revised resolution 07-7-4]

ACTION: Staff read recommendations. Applicant appeared presenting his case. After discussion, motion made by Neal, second by Kawczynski and all voting aye, the request was approved based on there has been a precedence set on lake lots and the soils area being located in the front yard.

CASE 3700

REQUEST: Nate Musfeldt is seeking a use for the temporary sale of fireworks from June 20, 2019 through July 5, 2019 on R-1 Residential zoned property. The property located at 3526 Hobson Pike is Parcel 60.08 on Wilson County Tax Map 119. The property consists of 5.10 acres.

ORDINANCE REFERENCE: ARTICLE 5 ZONING DISTRICTS - SECTION 5.10 RURAL RESIDENTIAL (R-1) - SECTION 5.10 RURAL RESIDENTIAL (R-1) - 5.10.04 - USES PROHIBITED - Mobile homes except on individually owned lots; group housing; billboards and similar advertising structures; uses not specifically permitted or permissible on appeal.

ACTION: Staff read recommendations and read letters of opposition. Applicant appeared presenting his case. Commissioner Sonja Robinson appeared in opposition. Linda Moody appeared in opposition. After discussion, motion made by Thompson, second by Kawczynski and all voting aye, the request was denied based on staff recommendations.

CASE 3701

REQUEST: Griggs and Maloney, Inc. is seeking a variance of forty (40) feet and ten (10) inches from the height requirement of thirty-five (35) feet in order to build an industrial building. The variance will allow the industrial building to be seventy-five (75) feet and ten (10) inches in height. The property located at 2147 Murfreesboro Road is Parcel 41 on Wilson County Tax Map 103. The property consists of 333.80 acres and a portion of the property is zoned I-1 Industrial and A-1 Agricultural.

ORDINANCE REFERENCE: ARTICLE 5 ZONING DISTRICTS - SECTION 5.40 - LIGHT INDUSTRIAL (I-1) - 5.40.06 - HEIGHT REGULATIONS. No building shall be built to a height exceeding thirty-five (35) feet at any required setback line, except where there is provided a minimum of one (1) foot of additional setback from the required distance for each one (1) foot of increase in the building height, to a maximum height of sixty-five (65) feet. To allow any increase in height over the thirty-five (35) foot maximum, it shall be the responsibility of the developer to show that adequate fire protection is demonstrated in both building design/construction and local fire-fighting capacity.

ACTION: Staff read recommendations. Kevin Justine with Griggs and Maloney, Inc appeared presenting the case. Robert Steinruck residing at 5470 Old Murfreesboro Road East appeared with concerns of the location. After discussion, motion made by Thompson with the following stipulations: the dust must be controlled leaving the driveway, no lighting shall bleed over to the adjoining residential properties, the towers are to be painted some color found in nature, second by Abercrombie. Thompson then amended the stipulation that the color will be approved by staff and all voting aye, the request was approved with the above stipulations and the amendment.

CASE 3702

REQUEST: Charley Dean is seeking to waive the requirement for sewer and waive the requirement for commercial building materials. The property located at 2720 McCrary Road is Parcel 16 on Wilson County Tax Map 137. The property consists of 12.94 acres is zoned C-2 Commercial PUD.

ORDINANCE REFERENCE: SECTION 3.41 COMMERCIAL OR INDUSTRIAL USE OF PROPERTY - Within any commercial or industrial zone district the following will be required:

1. Prior to any commercial or industrial use of property, a public sewer system as defined by this zoning ordinance must be in place for the provision of sewerage disposal.

[resolution 07-7-4] - SECTION 3.55 SITE DEVELOPMENT AND LANDSCAPING STANDARDS COMMERCIAL and INDUSTRIAL ZONE DISTRICTS (resolution # 04-12-17) - 3.55.02 Building Material - 1. Within commercial zone districts, Metal siding as a primary/predominant element shall not be permitted along any side of a building facing a public road. Said elevations shall consist primarily of brick, stone, or some other product deemed acceptable by the Planning Commission. The above listed building materials shall be extended at least one forth ($\frac{1}{4}$) of the way down adjoining building elevations.

ACTION: Staff read recommendations. Applicant appeared presenting the case and stating if there ever was a need to hook up to sewer, they would do so. After discussion, motion was made by Kawczynski, second by Neal and all voting the aye, the request was approved to waive the sewer requirement. In regards to waiving the commercial building material requirements, motion was made by Kawczynski, second by Neal and all voting aye, the request was denied.

There being no further business to come before the Board at this time, on motion duly made and seconded, adjourned.

Secretary